

REMARKS

Rejection Under 35 USC 102(b)

Claims 1, 4, 6, 10-12, 18, 19, 23, 25, 29-31, 33, 37, and 38 have been rejected under 35 USC 102(b). In response to this rejection, independent Claims 1 and 20 have been amended. More specifically, Claims 1 and 20 have been amended to make clear that the component elements and their associated connecting members are produced from different polymeric materials. An example is a device in which the anchoring member is produced from an elastic stock material and the associated connecting members are produced from a substantially inelastic material. Support for these claim amendments is found, for example, in paragraphs 31-32 of the Specification as filed. This amendment is further discussed below in connection with Applicant's response to the rejection of claim under 35 USC 103(a).

Rejection Under 35 USC 103(a)

Claims 2, 3, 5, 7-9, 13, 15-17, 21, 22, 24, 26-28, 32 and 34-36 have been rejected under 35 USC 103(a). Applicant's amendment of Claim 3 relates to the use of elastic stock for anchoring member production in combination with inelastic stock for connecting member production. With respect to the "elastic" limitation, previously featured in now-cancelled Claims 3 and 22, the Patent Office indicates that the sheet stock can be elastic, referring to the Lebner patent at column 2, lines 60-66. The relevant passage has been reproduced below for convenience.

In preferred embodiments, the flat flexible components, elongated connectors, and pulling elements described in the preceding paragraph are produced from substantially inelastic polymeric material. Alternatively, they may be produced from an elastic material which is reinforced with an inelastic structural component thereby rendering the device substantially inelastic.

Not only does the cited passage fail to render obvious Applicant's claims as amended, it actually teaches away from these claims. There is no teaching in the cited Lebner reference of the use of non-reinforced elastic elements in the production of the wound closure device. In paragraphs 31-32 of the current Specification as filed,

Applicant discusses the advantages associated with the use of elastic anchoring members. There is no suggestion that these should be reinforced, as this would render them substantially inelastic, thereby negating the advantages associated with the choice of materials. Reconsideration of the claims as amended is respectfully requested.

Double Patenting

Claims 1-38 have been rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 and 7 of US Patent No. 6,822,133 in view of US Patent No. 6,329,564. The Patent Office states further that:

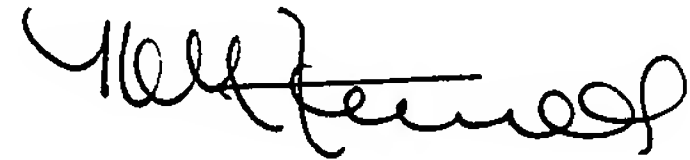
It is clear that substantially all the limitations of Claims 1 and 20 of the present application are to be found in Claims 1 and 7 of the '133 patent. The differences merely amount to wording changes and that the one or more first connecting members are "produced separately from the first adhesive-backed anchoring member" ...

Applicant respectfully request reconsideration of this provisional rejection based on the arguments set forth above in connection with the rejection under 35 USC 103(a). To restate, not only are claims 1 and 20 nonobvious in light of the cited prior art, but the cited prior art actually teaches away from Applicant's claims as amended.

Summary

In light of the above amendment, consideration of the subject patent application is respectfully requested. Any deficiency or overpayment should be charged or credited to Deposit Account No. 500282.

Respectfully submitted,



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